

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF: CITY OF DELOIT NPDES Permit #2421001	ADMINISTRATIVE CONSENT ORDER NO. 2014-WW- 10
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TO: City Clerk
City of Deloit
PO Box 473
Deloit, IA 51441

I. SUMMARY

This administrative consent order is entered into between the City of Deloit (Deloit) and the Iowa Department of Natural Resources (DNR) for the purpose of establishing a schedule through which Deloit can correct and prevent violations of NPDES Permit #2421001 and the Iowa statutes and regulations related to wastewater treatment and disposal.

Any questions regarding this administrative consent order should be directed to:

Relating to technical requirements:
Alison Manz, Environmental Specialist
DNR Field Office #4
1401 Sunnyside Lane
Atlantic, Iowa 50022
Phone: 712-243-1934

Relating to legal requirements:
Jon Tack, Attorney for the DNR
Iowa Department of Natural Resources
502 E. 9th Street
Des Moines, Iowa 50319-0034
Phone: 515-281-8889

II. JURISDICTION

This administrative consent order is issued pursuant to the provisions of Iowa Code section 455B.175(1), which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division III, Part 1 (wastewater) and the rules adopted or permits issued pursuant to that part, and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

1. Deloit owns and operates a wastewater treatment system pursuant to NPDES Permit #2421001. The wastewater treatment system was constructed in 1967 and consists of a

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controlled discharge, two-celled lagoon facility. The treatment plant discharges to Otter Creek, a tributary of the Boyer River. The most recent NPDES permit was issued on September 19, 2006 and expired on September 18, 2011. Because Deloit made timely application for permit renewal, the permit is administratively extended and remains in effect.

2. On September 6, 2007, the DNR conducted a routine inspection of the Deloit wastewater treatment plant. Multiple violations were discovered. It was found that the effluent control valves were rusted open and partially treated wastewater was being discharged on a continuous basis. Areas of erosion were observed in the lagoons and the berms lacked vegetative cover. Influent flow was not being accurately measured. Violations of permit limits and failures to submit discharge monitoring reports were also documented. A Notice of Violation was issued to Deloit on October 30, 2007.

3. On November 21, 2007, Sundquist Engineering contacted the DNR on behalf of Deloit. The DNR was informed that the outfall structure valve would be repaired by December 1, 2007.

4. From January through March of 2008, Deloit received Notices of Violation from the DNR due to the failure to submit discharge monitoring reports, failure to properly monitor during a discharge from the lagoons, and exceeding permit limits for CBOD5.

5. On April 29, 2008, the DNR was notified that Deloit had entered into a contract for the repair of the outfall valve structure. On June 25, 2008, Deloit reported that these repairs were completed.

6. On November 11, 2008, Deloit submitted preliminary design data for a new primary treatment cell which is needed at the wastewater treatment facility. On December 2, 2008, the DNR approved the preliminary designs for the new cell.

7. On December 11, 2008, the DNR sent a letter outlining an agreed-upon schedule for necessary wastewater collection and treatment system upgrades to be undertaken by Deloit. The schedule included installation of a flume and flow meter, inspection of the collection system to identify and eliminate infiltration and inflow (I & I) and the development of a plan of action for necessary treatment facility upgrades.

8. On March 11, 2009, Deloit submitted to the DNR a proposed schedule for necessary repairs and upgrades for the wastewater collection and treatment systems. The schedule proposed the completion of all necessary projects by September 2012. On March 26, 2009, the DNR informed Deloit that the proposed schedule was acceptable.

9. On January 6, 2010, Deloit notified the DNR that an unscheduled discharge from the lagoons was necessary because the lagoons were full. Samples indicated that Deloit could not meet effluent limits at that time. Deloit was advised to discharge at the rate of inflow until it could comply with effluent limits.

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10. On June 18, 2010, Deloit notified the DNR that, due to heavy rains, the lagoons were full but samples indicated that Deloit could not meet the permit effluent limits. Deloit discharged at the inflow rate until samples indicated the limits could be met. As of June 25, 2010, a full discharge was occurring and limits were met. This discharge continued until July 17, 2010.

11. On August 6, 2010, Deloit notified the DNR that it was going to discharge again because the lagoons were full.

12. In November of 2010, Deloit began smoke testing the wastewater collection system. Significant sources of I & I were discovered. Deloit reported an intent to immediately eliminate the identified I & I sources.

13. During February through April of 2011, Deloit reported severe I & I flows in the wastewater collection system. By April 15, 2011, the lagoons were full but effluent samples did not meet limits. Deloit began discharging at the inflow rate.

14. During the summer of 2011, Deloit jetted and televised the entire wastewater collection system. During the fall of 2011, Deloit smoke-tested the collection system. Several open or broken lines were discovered and the majority of these I & I sources were capped.

14. On November 17, 2011, the DNR conducted a routine inspection of the Deloit wastewater treatment and collection systems. Lagoon berm erosion was noted. It was determined that the sludge in the lagoon cells had not been cleaned out since they were built in 1967. It was observed that the valve at the influent control structure and the valve at the cross-over pipe were both broken. This prevented the lagoons from being operated as primary and secondary cells. A copy of the inspection report was sent to Deloit on December 15, 2011.

15. On January 30, 2012, Deloit reported that the flow meter at the lift station had been calibrated. This was necessary to accurately measure the rate and volume of influent flow.

16. On March 2, 2012, Deloit submitted a proposed plan of action for necessary repairs and upgrades to the wastewater treatment and collection systems. The plan of action called for a phased approach to repair existing systems and build additional treatment capacity. The plan called for all phases to be completed by October of 2014. On August 17, 2012, the DNR sent a letter to Deloit supporting the proposed plan of action.

17. On January 15, 2013, Deloit submitted an updated schedule which proposed completion of all necessary upgrades by December 15, 2014.

18. On March 29, 2013, the DNR and Deloit held a project initiation meeting to begin the process of obtaining a wastewater construction permit.

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19. On November 15, 2013, Deloit submitted a disadvantaged community analysis to the DNR.

20. On January 23, 2014, Deloit submitted a Preliminary Engineering Report for the planned wastewater facility upgrades.

21. On April 28, 2014, the DNR issued a finding that Deloit qualifies for a schedule of compliance as a disadvantaged community pursuant to 567 IAC 64.7(5). The DNR requested that Deloit submit a proposed compliance schedule by May 27, 2014.

22. On May 2, 2014, Deloit submitted a draft compliance schedule. On May 27, 2014 Deloit submitted a proposed compliance schedule to the DNR for Phase I of the necessary facility repairs and upgrades. Phase I consists of rehabilitating the existing two-cell lagoons including removing sludge; replacing all process piping, structures and control valves; and replacing the lagoon liner and rip-rap. The Phase I schedule is being incorporated into this administrative consent order. Deloit also intends to complete Phases II of the previously submitted plan of action after the completion of Phase I. Phase III will only be undertaken if necessary to achieve compliance.

IV. CONCLUSIONS OF LAW

The DNR and Deloit agree that the following conclusions of law are applicable in this case:

1. Pursuant to Iowa Code section 455B.186(1), a pollutant shall not be disposed of by dumping, depositing, or discharging such pollutant into any water of the state, except that this section shall not be construed to prohibit the discharge of adequately treated sewage, industrial waste, or other waste pursuant to a permit issued by the director.

2. 567 IAC 64.7(7)(f) states that each issued NPDES permit shall provide for and ensure that the permittee at all times maintain in good working order and operate as efficiently as possible any facilities or systems of control to achieve compliance with the terms and conditions of the permit. The above-mentioned facts indicate noncompliance with this provision.

3. Pursuant to 567 IAC 64.3(1), no person shall operate any wastewater disposal system or part thereof contrary to any condition of an operation permit issued by the Director of the DNR. Deloit has violated the permit provisions related to monitoring, reporting, timing of discharges, effluent limitations and system maintenance on numerous occasions.

4. Pursuant to 567 IAC 63.3, 63.8 and 63.9 and NPDES Permit #2421001, a permit holder shall submit discharge monitoring reports containing all monitoring information required by the permit. Deloit has failed to submit the required reports and has violated the required deadlines for reports that were filed.

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5. Pursuant to 567 IAC 64.7(6), if compliance with applicable state and federal regulations will result in substantial and widespread economic and social impact to the ratepayers and an affected community then the DNR may establish a schedule of compliance that will result in an improvement of water quality and reasonable progress toward complying with the applicable requirements but does not result in substantial and widespread economic and social impact. The DNR has determined that the completion of all three phases of the plan of action immediately would result in such impact to Deloit and is therefore allowing a phased approach that will allow the opportunity for Deloit to seek additional funding.

V. ORDER

THEREFORE, the DNR orders and Deloit agrees to the following schedule of compliance:

1. By November 1, 2014, Deloit shall submit to the DNR plans and specifications and an application for a construction permit related to Phase I of the planned wastewater treatment and collection system improvements in Deloit. The DNR shall issue or deny a construction permit for Phase I within 90 days of the submission of a complete application.

2. By November 15, 2014, Deloit shall make timely and complete application for Community Development Block Grant funding through the Iowa Economic Development Authority.

3. By December 15, 2015 Deloit shall complete construction of Phase I of the planned wastewater treatment and collection system improvements.

4. By July 1, 2015, Deloit shall submit a preliminary proposal for the completion of Phases II and, to the extent determined necessary to achieve compliance, Phase III of the previously submitted plan of action. The proposal must result in an improvement of water quality and reasonable progress toward complying with the applicable requirements of Iowa law.

VI. PENALTY

1. Iowa Code section 455B.191 authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the violations involved in this matter. Iowa Code section 455B.109 authorizes the Environmental Protection Commission (Commission) to establish by rule a schedule of civil penalties up to \$10,000 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties at 567 IAC chapter 10. In light of the disadvantaged community status of Deloit and the relatively short schedule to return to compliance, the DNR has determined that a

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penalty is not appropriate at this time. The DNR reserves the right to seek administrative penalties for any future violations, including violations of this administrative consent order.

VII. WAIVER OF APPEAL RIGHTS

This administrative consent order is entered into knowingly by and with the consent of Deloit. For that reason, Deloit waives the right to appeal this administrative consent order or any part thereof.

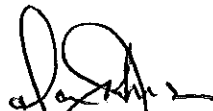
VIII. NONCOMPLIANCE

Failure to comply with this administrative consent order may result in the imposition of administrative penalties or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.191. Compliance with section V. Order, paragraphs 1 through 4, of this administrative consent order will result in an improvement of water quality and reasonable progress toward complying with the applicable legal requirements to the extent that such compliance can be achieved without resulting in substantial and widespread economic and social impact on Deloit.



CHUCK GIPP, DIRECTOR
Iowa Department of Natural Resources

Dated this 18th day of
August, 2014



Alan Johnson, Mayor
City of Deloit

Dated this 14th day of
August, 2014

NPDES #2421001 ; Field Office #4; Jon Tack; I.B.2(a), (b) & (c); I.C.1